

SEC. 11. AMENDMENTS RELATED TO TITLE X.

(a) AMENDMENTS TO RAILROAD RETIREMENT ACT.—

(1) Section 14(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231m(b)) is amended by adding at the end the following:

“(3)(i) Payments made pursuant to paragraph (2) of this subsection shall not require that the employee be entitled to an annuity under section 2(a)(1) of this Act: Provided, however, That where an employee is not entitled to such an annuity, payments made pursuant to paragraph (2) may not begin before the month in which the following three conditions are satisfied:

“(A) The employee has completed ten years of service in the railroad industry or, five years of service all of which accrues after December 31, 1995.

“(B) The spouse or former spouse attains age 62.

“(C) The employee attains age 62 (or if deceased, would have attained age 62).

“(ii) Payments made pursuant to paragraph (2) of this subsection shall terminate upon the death of the spouse or former spouse, unless the court document provides for termination at an earlier date. Notwithstanding the language in a court order, that portion of payments made pursuant to paragraph (2) which represents payments computed pursuant to section 3(f)(2) of this Act shall not be paid after the death of the employee.

“(iii) If the employee is not entitled to an annuity under section 2(a)(1) of this Act, payments made pursuant to paragraph (2) of this subsection shall be computed as though the employee were entitled to an annuity.”.

(2) Subsection (d) of section 5 of the Railroad Retirement Act (45 U.S.C. 231d) is repealed.

(b) EFFECTIVE DATES.—

(1) SUBSECTION (a)(1).—The amendment made by subsection (a)(1) shall apply with respect to payments due for months after August 2007. If, prior to the effective date of such amendment, payment pursuant to paragraph (2) of section 14(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231m(b)) was terminated because of the employee's death, payment to the former spouse may be reinstated for months after August 2007.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall take effect upon the date of the enactment of this Act.

SEC. 12. AMENDMENTS RELATED TO TITLE XI.

(a) AMENDMENT RELATED TO SECTION 1104.—Section 1104(d)(1) of the 2006 Act is amended by striking “Act” the first place it appears and inserting “section”.

(b) AMENDMENTS RELATED TO SECTION 1105.—Section 3304(a) of the 1986 Code is amended—

(1) in paragraph (15)—

(A) by redesignating clauses (i) and (ii) of subparagraph (A) as subparagraphs (I) and (II),

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(C) by striking the semicolon at the end of clause (ii) (as so redesignated) and inserting “, and”,

(D) by striking “(15)” and inserting “(15)(A) subject to subparagraph (B),”, and

(E) by adding at the end the following:

“(B) the amount of compensation shall not be reduced on account of any payments of governmental or other pensions, retirement or retired pay, annuity, or other similar payments which are not includible in the gross income of the individual for the taxable year in which it was paid because it was part of a rollover distribution.”, and

(2) by striking the last sentence.

(c) AMENDMENTS RELATED TO SECTION 1106.—Section 3(37)(G) of ERISA is amended by—

(1) striking “paragraph” each place it appears in clauses (ii), (iii), and (v)(I) and inserting “subparagraph”,

(2) striking “subclause (i)(II)” in clause (iii) and inserting “clause (i)(II)”,

(3) striking “subparagraph” in clause (v)(II) and inserting “clause”, and

(4) by striking “section 101(b)(4)” in clause (v)(III) and inserting “section 101(b)(1)”.

SEC. 13. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect as if included in the provisions of the 2006 Act to which the amendments relate.

Mr. STARK (during the reading). Madam Speaker, I ask unanimous consent that the reading be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the gentleman's initial request is agreed to.

There was no objection.

PERMISSION TO RESOLVE INTO SECRET SESSION

Mr. HOYER. Madam Speaker, at the request of, and after discussion with, the distinguished Republican whip, I ask unanimous consent that at a time designated by the Speaker on the legislative day of March 13, 2008, the House resolve itself into secret session as though pursuant to clause 8 of rule XVII; secondly, debate in such secret session proceed without intervening motion for 1 hour equally divided and controlled by the majority leader and the minority whip; and, thirdly, at the conclusion of that debate, the secret session shall be dissolved.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. BLUNT. Reserving the right to object, Madam Speaker, I believe I heard the leader say clause 8.

Did you mean clause 9?

Mr. HOYER. Clause 9. Excuse me.

Mr. BLUNT. Clause 9. And this secret session would be convened at some time by the Speaker today when the room has been secured and would dissolve at the end of an hour of discussion? Is that what I understand?

Mr. HOYER. That's what the consent agreement is, pursuant to our discussions.

Mr. BLUNT. I withdraw my reservation, Madam Speaker.

Mr. KUCINICH. Reserving the right to object, Madam Speaker, would the gentleman from Maryland yield to a question?

Mr. HOYER. Certainly.

Mr. KUCINICH. Can you divulge to this House what is going to be discussed, not the content of it, but the topic that's going to be discussed?

Mr. HOYER. My presumption is, and I think that's accurate because of my discussions with the Republican whip, the discussion will be with reference to the Foreign Intelligence Surveillance Act.

Mr. KUCINICH. And the debate that will take place regarding the Foreign Intelligence Surveillance Act, what would conceivably be the nature of that debate?

Mr. HOYER. I can't tell you that because I don't know.

Mr. KUCINICH. Is it going to be debate over legislation?

Mr. HOYER. I presume, I tell the gentleman from Ohio, that it certainly will relate to the legislation that we will then be considering probably at this point in time tomorrow.

Mr. KUCINICH. The gentleman, in his long experience in the House, could he communicate to those who have, in my case, been in this House 12 years or less, anytime in your experience where the House has debated legislation in secret?

Mr. HOYER. My presumption is that we will not debate the legislation in secret. Not only is that my presumption, I think we will clearly have public debate tomorrow on the bill. The minority whip came to me indicating that there were things he thought the Members ought to have knowledge of that he was of the opinion could not be divulged in public debate. There is a provision under our rules to accomplish that objective. After discussion with him and limitation on the time so that we could, in fact, get to a vote on what we believe is very important legislation, we have agreed to this arrangement. Again, it's limited, but we did not want to be nor are we in the position of saying to the minority whip if he has such information that we want to preclude that from being offered, because we want no indication that any information is being withheld. That is appropriate, obviously. There are going to be restrictions, obviously, even in the context of the session.

Mr. KUCINICH. My friend has said two things. One is that there's an assumption that it's going to be about FISA, and another one is that there is going to be a debate of sorts.

When I asked the question if you are aware of whether or not anything like this has happened before, we are talking about specific legislation that is before this House, would the gentleman know what the precedent for this is? Is this unprecedented that the House of Representatives would be meeting in secret preliminary to legislation that it intends to pass? I haven't experienced this in my time; and for information purposes, I would ask the gentleman, who has been here, I think 26, 28 years, if in his experience he can remember that.

Mr. HOYER. I thank the gentleman. In responding to him, I believe, and I'm not, frankly, absolutely positive, and I am hoping that somebody perhaps on the Intelligence Committee staff or others in the House knows, but I believe that during the early 1980s, 1983, on Contragate there was such a session.

Mr. KUCINICH. When?

Mr. HOYER. In 1983.

Mr. KUCINICH. On what?

Mr. HOYER. Contragate.
Mr. KUCINICH. Iran-Contra?
Mr. HOYER. Yes.

Mr. KUCINICH. Was that before the hearings or after the hearings?

Mr. HOYER. I don't know the answer to that question.

Mr. KUCINICH. Well, I mean there's relevance here.

Mr. HOYER. If you will yield to Mr. BLUNT, he may be able to offer some information.

Mr. KUCINICH. I yield to my friend, Mr. BLUNT.

Mr. BLUNT. My friend, I didn't quite hear your last question.

Mr. KUCINICH. I said was it Iran-Contra?

Mr. BLUNT. It was not on Iran-Contra. It was 1983 and it was on Contra. In fact, our colleague from Florida (Mr. YOUNG) called for that secret session in 1983. There was also a secret session in 1979 and in 1980. So there have been three of these. They were in recent years, but it has obviously been a long time since 1983.

Mr. KUCINICH. And they were preliminary to the passing of legislation?

Mr. BLUNT. I don't know the answer to that.

Mr. KUCINICH. I just want to point out something here, Madam Speaker, as this House proceeds on this track. There are some of us here who feel that this country has drifted towards a version of a national security state. When the House begins to meet in secret on matters that relate to security prior to legislative acts, it raises questions about the Constitution of the United States. I know I am familiar with my friends' awareness that the Constitution gives the Congress the ability to make its own rules. I also understand from the first amendment that Congress wouldn't restrict any establishment of free speech. This is the citadel of free speech. This is the only place in America that someone can stand and say anything they want at any time and be free from any kind of a legal attack.

Once we close that up, we're changing the nature of it at a time when this country's at war, when there have been questions raised about secret meetings and what was told with respect to torture, about secret meetings and what was told with respect to rendition, about secret meetings and what was told with respect to private corporations doing wiretapping.

I just want the Members of this House to incorporate that in their reflections when we proceed to approve an agreement for a secret meeting.

I'd also like to state this, to just share my experience, and that is without referring to any content of any secret meeting I have been in, and I have been in a few at the beginning of my term in the House, I have found from my own experience, from my own experience, that secret meetings end up being occasions for the communication of information of, at least at best, dubious value. And I am not in any way

impugning the motives of my good friends who are asking for a secret meeting in this case. But I am sharing with you my experience prior to this moment that secret meetings have been the occasion to communicate information that hasn't been particularly forthright or true.

Now, I could point to individuals, at least one individual who is sitting in this Chamber right now, who, when we had a secret meeting right after 9/11, walked right down that aisle and uttered a famous barnyard expletive after we were being briefed in a secret meeting by a member of the administration. Some of you who were there at the time remember. So I'm just communicating a concern here about the path we're going down, and I can only do that.

I will not attend that meeting. I will withdraw my reservation of objection. But I want to have my friends here know that we ought to be proceeding with the utmost caution in going in this direction. I am not going to be attending such a session. I believe that it violates the spirit of this House, but I will withdraw my reservation of objection since my good friend feels that this is the path that he has to go.

The SPEAKER pro tempore. Is there further objection?

Mr. PASTOR. Madam Speaker, reserving the right to object, would the leader yield for two questions?

Mr. HOYER. Yes.

Mr. PASTOR. As I understand the situation, we are going to secure the Chamber, and in securing the Chamber, I think it means that from the Cloakroom, the people who work the Cloakroom who usually tell us when the Chamber will be cleared, how are they going to communicate that we can come back in for the secret session?

Mr. HOYER. The answer to the question is you will all be receiving from the leader and the whip's office on your e-mails notification of the time and you will get sufficient notice. It is contingent upon how long it takes those that have the responsibility to do so. But you will be getting your e-mails in a time frame that will allow you to get back notice.

Mr. PASTOR. The second question I have is do you expect to have further votes tonight, for those of us who will not attend this secret session and we won't know when it's finished?

Mr. HOYER. If this is approved, my expectation is there probably will be no further votes tonight.

Mr. PASTOR. I withdraw my reservation of objection, Madam Speaker.

The SPEAKER pro tempore. Is there further objection?

Mr. DOGGETT. Reserving the right to object, Madam Speaker, certainly if the minority leader or any other Member of this House has classified information about a sensitive, important subject like foreign intelligence and there is no other way to present it, this is an appropriate way to do it. I want to be sure that I understand the parameters under which that's being done.

It is occurring pursuant to a unanimous consent agreement that sets forth the conditions of this meeting?

Mr. HOYER. Yes.

Mr. DOGGETT. And the minority leader has mentioned there were secret sessions in this House in 1979, in 1980, and 1983; and apparently there has not been one since 1983, to the best of your knowledge?

Mr. HOYER. I think that's accurate.

Mr. BLUNT. If the gentleman would yield, that's to the best of my knowledge. I'm the minority whip. I am sure the leader would verify that as well, and we have Members who were here during that time. But there has not been a secret session since 1983. There have clearly been times when the room has been secured, but not for secret session.

Mr. DOGGETT. So in the history of the United States Congress since its founding, there have been secret sessions no more than five times?

Mr. BLUNT. That's not correct.

Mr. DOGGETT. Do you have an estimate of it?

Mr. BLUNT. I think in the early days they were in secret session all the time or much of the time. Since 1825, I think, there have been three secret sessions. Prior to that I think there were many secret sessions.

Mr. DOGGETT. So since 1825, three times in the history of this country, and at no time since 1983 we have done what you are proposing in this unanimous consent agreement to do.

□ 1815

Now, in this session, so that I understand the parameters and assure that we are not really doing the public's business in secret that ought to be done out here in public, will the session and the debate be limited to the presentation of classified material or the discussion of the significance of that classified material?

Mr. HOYER. That is my expectation.

Mr. BLUNT. If we move this without unanimous consent under the rules, it provides for 1 hour of debate, and you can debate and discuss the information that is presented and the conclusions that may have been drawn from that information.

Mr. DOGGETT. Let me just get clarification of that.

Mr. BLUNT. I don't have the time.

Mr. DOGGETT. I would not want to limit the ability of anyone to debate any aspect of this. If their points are clear and justified, I would want them to do that in front of the American people and not in a secret session, unless it in some way compromised the confidentiality and the classified nature of the material.

And that is why I am trying to be sure that if I come tonight, as I intend to do, to this session, and I hear an hour or 15 or 20 minutes of debate that has nothing to do with these classified materials, I want to know if I am going to have the right to raise a point of order that this is conducting the

public's business in secret and that we have been brought here under false pretenses. I assume that won't happen, but I want to be clear before going into this session what my rights are pursuant to the unanimous consent agreement. Because if the unanimous consent agreement does not protect that, then it would be appropriate, I suppose, at this time, to ask that the agreement be amended to provide something along those lines.

Mr. HOYER. I think the answer is that, within the framework of the unanimous consent, I've requested there is not such a limitation. I think the gentleman is correct on that. However, as I said, my expectation and my discussions with the whip are that the purpose of the session is to offer information that might not otherwise be appropriate to disclose in public session.

My expectation is there is going to be a fulsome debate, as there has been, tomorrow on the legislation itself. So my expectation, given the shortness of the time that we are talking about, 30 minutes per side, we will have the Intelligence Committee here and the Judiciary Committee here to comment, obviously it is going to be a little difficult, because if there is information brought up that there may be comment on that information, and very frankly, the parameters of the debate tomorrow may, although not disclosing that information, may obviously be perceived by many of us as relating to whatever is discussed. It is very difficult to know specifically because I do not know the specific information that that request was made for.

Mr. DOGGETT. I understand. If there is discussion and debate of matters that do not concern classified materials, then under the terms of the unanimous consent agreement and the rules of the House, is any Member of this House who is present for that discussion free to openly discuss in public, during later debate, what was said during that session?

Mr. HOYER. I think that's a very good question. Let me tell you that we have asked. Mr. BLUNT and I have discussed that. And we have asked the appropriate officials, bipartisan officials, of this House, under the rules, to give us the answer to that question and to have on paper the specific advice to every Member of the House so that we cannot have Members go out of here, put themselves at risk of violation of the rules, have clear advice and counsel as to what that is.

Now, it is my belief, this is not an opinion given to me, but it is my belief that every Member of this House that receives information from sources unrelated to this hour are certainly free, as they are right now, to discuss that information. And the fact that it is discussed in the session would not adversely affect that right. I would be shocked and not in agreement with this unanimous consent if the case were otherwise.

Mr. DANIEL E. LUNGREN of California. Would the gentleman yield?

Mr. DOGGETT. I believe I control the time under the reservation, but I yield to you.

The SPEAKER pro tempore. The gentleman from Texas controls the time.

Mr. DANIEL E. LUNGREN of California. I was here for the last three secret sessions we had. They are unusual, but it is within the rules that did deal with subject matter dealing with legislation that we were to talk about. We should be careful, however, while some classified information might be discussed, the information that those of us on the Judiciary Committee and Intelligence Committee received of the program we were read into, we are not able to discuss what we were briefed on specifically. We are, as I understand under the rules, able to draw conclusions and attempt to present that based on what we saw, but the fact that we have a secret session does not allow us to speak to that.

Secondly, that which is discussed in the secret session cannot be revealed even if it is of an unclassified nature. It does not prohibit you in the later debate on the floor from discussing the same subject saying the same thing; it is that you cannot refer to it having been in the secret session.

And I hope that helps the gentleman.

Mr. DOGGETT. You are saying you were here in 1979, 1980 and 1983 for those three sessions?

Mr. DANIEL E. LUNGREN of California. Believe it or not, I was, as young as I am now.

Mr. HOYER. We are not surprised by that.

Mr. DOGGETT. I would just suggest that we could be better off having this done in the unanimous consent agreement itself, since that is what's setting out the terms of this discussion. It is a very, very serious matter when we do the public's business in secret. That is why it has only been done three times since 1825. And it is a very bad precedent for this House to get into the business of conducting any of its business in secret, except, and Mr. BLUNT appears to provide the exception, except under a circumstance where there's classified material on something as important as the security of our families. And so long as we have set out all the parameters of the meeting in the agreement, then I have no problem with it. But I don't want it to wander off in debate, which now my friend tells me I can't talk about afterwards, because I came to this secret session about something that maybe didn't need to be secret.

Mr. HOYER. Madam Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Maryland.

Mr. HOYER. The contemplation of this unanimous consent is that there will be no business done in the sense of "doing business" as taking legislative action. Nobody contemplates that.

Mr. DOGGETT. I understand the distinction, but I think of my history with the Texas Open Meetings Act, and

just the discussing of these matters is part of public business.

Mr. HOYER. If I could continue, there are some in this body who have, because of their membership on particular committees, been able to see information in secret which other Members of this body have not seen. As the distinguished gentleman from California observed, there are still limitations notwithstanding this secret session.

We have a room that allows people to receive information in secret. They are not necessarily transacting business; although, the Intelligence Committee obviously on both Houses does, in fact, conduct its business in secret in that they vote in secret on some legislation.

All this contemplates is the offering and receiving of information that the minority has represented they believe they want to give to the Members that they ought not to give in open session. The matter that we are considering obviously is a very important, critical matter. There are substantial, as you know, differences. You and I agree on most of those. We perhaps disagree with others. It was the Speaker's and my view after discussing with Mr. CONYERS and Mr. REYES that to deny that would give Members the impression that somehow we did not believe they ought to have that information.

Now, I don't know what the information is, as I have said. But having said that, we certainly do not contemplate any business being done. Now, the fact that a Member may say something that is not secret, I would presume things are going to be said in there that are not secret. The gentleman from Ohio raised some excellent points. I share the concern of the gentleman from Texas and the concerns.

But I also understand this is a serious matter. We believe in public we will debate tomorrow a serious proposal as to how to serve our intelligence interests and our constitutional responsibilities. So I am hopeful that we will not object to this, although I think the concerns raised are absolutely legitimate, very serious, worthwhile concerns, and as the gentleman from Texas observes, which is why this is done so very infrequently. I have only been a participant in the 1983 session.

I thank the gentleman for yielding. But that is my take on what is going to transpire.

Mr. BLUNT. Madam Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Texas.

Mr. BLUNT. I will say to my friend, I appreciate your concern about this. I would also say the rules provide for this kind of session. Many Members of the House, more Members in the majority than the minority were here when we had a secret session before when we talked about implementing legislation of the Panama Canal Zone or Cuba and other Communist block countries' involvement in Nicaragua.

I actually think that the debate that we are entering into this week is at a high level of security for the country. I believe I will bring information to the secret session that some Members are aware of but most are not. I also think that by the definition of the mutual agreement that we would divide the time, that I am only bringing part of the discussion. I certainly can't suggest what will happen in the questions, comments, and concerns that will come from the other side. So at least 30 minutes of the hour, I also have no idea what will be said in that, but I thought that was a fair way to divide the hour that I could at least ask for to control on my own under the rules with none of the restrictions the gentleman has suggested, and a majority of the Members of the House can either decide to do that or not.

And I appreciate the Speaker and the leader trying to work in this important issue to create an environment where we can talk about topics that we could not otherwise talk about. I am also sure, as my friend from California suggested, that some of the things that will be talked about very likely can and will be talked about later in the week, because they will be related to a secret topic but not secret in nature. You just can't discuss them as having been discussed as part of this secret session. You just discuss them as you would if we hadn't had the secret session that the rules clearly allow for.

And again, the most times these rules were exercised in the history of the Congress was not in the 1820s or 1830s. It was in the 1970s and the 1980s. And many Members of the majority were here during that time and participated in those sessions.

I thank the gentleman for yielding.

Mr. DOGGETT. You ease some of my concerns. But when you talk about the seventies and the eighties and the like, it is three times since 1825.

Let me just be sure that I'm clear, because maybe we are in agreement on this. The only purpose of your requesting this secret session is to present to the House, or have others present, matters that you feel you cannot present in public concerning matters that are classified. It may be necessary to discuss other interrelated matters, and you can anticipate what questions you may be asked, but the only reason for convening the House tonight in secret is because there are classified matters that you feel would jeopardize the security of our country if we discussed them in public.

Mr. BLUNT. I think I am in agreement with the parameters the gentleman has suggested. I also understand that when you raise those topics, you have perhaps a fuller exchange of ideas, but certainly you can't control what the exchange of ideas will be in the hour that we would mutually agree to give ourselves for this topic. And I believe the topic is every bit as important as implementing legislation for the Panama Canal Zone or other things

that this has been used for in the past. And I frankly think the topic is of supreme importance to the security of the country.

And that is why I was prepared to make the request, but also prepared not to make the request with, my discussions with the majority leader and the Speaker about a way that we could mutually agree how to divide the time, how to establish rules that go beyond the rule that I would have been entitled to ask for, but perhaps not as far as being able to prove that we wouldn't talk about anything in that hour that wasn't of a secret nature. And I would thank the gentleman for yielding.

Mr. OBEY. Madam Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman. Let me simply say I was here for those secret sessions. And I think the great utility of having another one, given the mumbo jumbo that I heard at the last three, is simply to demonstrate the almost total uselessness of secret sessions.

□ 1830

Mr. DOGGETT. Madam Speaker, I will at this point withdraw my reservation, but would want noted by the reservation my concern as a former member of the Judiciary about the precedent-setting nature of this. This is the fourth time since 1825, and I just ask that we stick to the purpose for which the gentleman has said we are gathering, and we give the most careful consideration before embarking on any such secret sessions in the future.

Mr. HOYER. I appreciate the gentleman's comments.

Mr. DOGGETT. I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. PRICE of Georgia. Madam Speaker, reserving the right to object, I appreciate the comments of my friend from Texas on our concern about our not conducting our business in secret. We share those concerns. Although this isn't unprecedented, it is an extraordinary act for this Congress to take.

I think it is important that many of us, at least on this side of the aisle, believe the necessity for this is because the Protect America Act has not been brought to the floor and the House hasn't been allowed to vote on it. Consequently, we believe that it is important to have a discussion that hopefully will allow our friends, many of our friends on the other side of the aisle, to see the imperative of moving forward with the Protect America Act and allowing H.R. 3773 with the Senate amendments to be voted on on this floor of the House.

So I will be supporting moving into the secret session, because I believe that it is a step that will allow our colleagues on the other side of the aisle to appreciate and understand the impera-

tive of having a vote on the floor of the House to the Senate amendments and concur in those Senate amendments to H.R. 3773.

Madam Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. SERRANO. Madam Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from New York is recognized.

Mr. SERRANO. The least important thing I can think of, the least important, is that the American public doesn't think too well of Congress right now, and going into a secret session is not going to help that. But that is the least important thing.

It almost sounds like we need a secret session prior to the secret session to tell the membership what we are allowed to do and say after the secret session. Some of us who oppose many of the things that have happened since September 11 have already drawn conclusions as to what we think is happening or not happening. I am not privy to all the intelligence and I don't think anyone is, and there are some folks in our government and some agencies historically that I don't trust. So I will never really know what the truth is. But I have a sense of what the truth may be and what the danger is of what we are doing in this country at this point.

So my concern is, at what point does what I feel and know become part of what is discussed at this session, and therefore if I keep discussing it in public I have now violated the secret session that I wasn't supposed to violate? I heard before that some things will be discussed at the secret session that are not classified. So if I discuss them later, am I in violation of House rules?

In other words, what I am suggesting, Mr. Leader, is that to tell the membership that we are having a secret session and have someone like me who has been here 18 years say what is that, without preparation for this extreme type of behavior, is to put the membership at risk. At risk.

We don't want to walk into this blindly, and I am walking into it blindly if I decide to attend. I don't know what I am allowed to say and do, and I say a lot of things about our behavior.

So I would hope if we are going to do this, we actually, and this is not a very popular notion, take some extra time in private to tell us. I know what happens when a general comes to me and tells me something that is going on in Iraq. I know I can't say that, because it was a classified meeting. I know that. But this is going to be debate. How is that debate going to be different from some things we say tomorrow in open debate? And if I forget, and I am not trying to be funny here, and mention some of that debate in this debate, what violation am I in?

My last point: With all due respect, if the gentleman has secret information

that speaks to the safety of my beloved country, our country, why didn't the gentleman take that information to the chairman of the Intelligence Committee, where it belongs? Why bring it to the whole House and put us all in that situation, when indeed we have an Intelligence Committee, we have a ranking member, we have a full committee?

I as a Member would be totally comfortable with the gentleman bringing that information. I assure you that if I ever learn anything that I believe can hurt our country, I will bring it to the Intelligence Committee right away. I will not call for a secret session that puts us at risk, that makes the American people think that we don't want to discuss in public some things, and that may in fact strike fear into Members to vote for a bill that we probably should not vote for.

Madam Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Does any Member further object?

Mr. HASTINGS of Florida. Madam Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Florida is recognized.

Mr. HASTINGS of Florida. Madam Speaker, one of the reasons that we find ourselves in this position is the discussion between both Houses of Congress and Members on either side regarding immunity. It is fascinating that we find ourselves in the position of debating giving immunity to people that we don't know what violations they have committed that we are giving them immunity for. Very strange.

But I would ask the distinguished majority leader and the distinguished minority leader a very serious question: Who has the classified information? As I listened to both of you, I did not get clarity as to whether either of you know what is supposed to be that information. And if that person has classified information, at what level is it? Is it at top secret, or is it at secret? Can either of the distinguished gentlemen provide that information to this Member?

Mr. BLUNT. Madam Speaker, will the gentleman yield?

Mr. HASTINGS of Florida. I would be happy to yield to the gentleman from Missouri.

Mr. BLUNT. I think it would be my obligation, even though I haven't actually moved to do so based on our discussions, to bring information and communicate information that is confidential and that I believe ought to be kept secret at this time. I will also remind my colleagues that many of them in September of 2006 voted to go into secret session, and we didn't go into secret session that day. I am pleased that we appear to be moving in that direction. But there is a time that the rules call for when you are in a situation where the national security of the country is important, and there is much of the information that reaches a secret level that could be discussed in a

secret session that conclusions have been drawn from and can be drawn from, that my belief is we would benefit from that discussion.

Mr. HASTINGS of Florida. Reclaiming my time and continuing my reservation, with all due respect, I don't think the distinguished minority leader answered the question that I asked, and that is, Who has the classified information?

Mr. BLUNT. If the gentleman will yield further, I think I said it would be my obligation to bring that information. Because of my clearance level, I have seen the secret information, and information at other levels as well, and would anticipate bringing information to the secret session at the secret level.

Mr. HASTINGS of Florida. It is at the secret level.

Mr. BLUNT. At the secret level.

Mr. HASTINGS of Florida. That being said, I will not object. But as other Members have, I will place on the RECORD I came here with the thought in mind that there was a substantial reason for us to go forward with a secret session, but I have learned from a considerable amount of experience in this arena that there are times when it is best not to be where ostensibly secret information is supposed to be provided, so at least I will not attend the session.

Madam Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there further objection?

Ms. KAPTUR. I reserve the right to object, Madam Speaker.

The SPEAKER pro tempore. The gentlewoman from Ohio is recognized.

Ms. KAPTUR. Madam Speaker, reserving the right to object, and I likely will object, in my 26th year in the House I guess first I look at the clock. It is Thursday night, almost 7 p.m. here in Washington. We have been in session all week long. We knew that FISA would be coming up. Now at this moment a secret session is requested.

As a member of one of the key committees in the House, the Defense Appropriations Subcommittee, whatever is so secret has never been discussed in our subcommittee. We have been having repeated meetings every day for the last several weeks.

I don't know if this has come up before our Intelligence Committee. I notice that most of the people who are asking are not ranking members on some of our key committees dealing with the oversight of intelligence in our country, and that makes me wonder why on Thursday night, when people have had to change their plane reservations, this is coming up now.

I ask myself, is there any imminent danger to our country that would require such a secret session now, and why is the gentleman asking and not the minority leader asking, if it is so imminent and it is so much a threat?

Mr. BLUNT. Madam Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Missouri.

Mr. BLUNT. The timing of the floor, I would tell my friend from Ohio, is not up to me, and it has been well known for this entire day that I would make this request at sometime during the day. We worked with the majority to try to get the budget out of the way. It is my impression we were going to be here on Friday anyway. Maybe others had better knowledge of plane reservations than I did, but I think we are here on Friday.

I think the Friday work we would do is critically important, and my view is that this discussion adds to the knowledge that the Members will have as we have the debate on the bill tomorrow. Of course, I would much prefer we were voting on the Senate bill tomorrow, a bill that could go to the President; but I don't control that either, not being in the majority.

Ms. KAPTUR. Continuing my reservation, most of the information that I have ever sought relating to intelligence, one can ask special permission. You can go up to the room in the Capitol and you can read anything. You can read for days. I really don't understand what the minority is doing here tonight.

I am not comfortable with this at all. We had caucus meetings this week. This never came up. I understand under the rules you can ask for it and it can come up almost immediately, but I just am extraordinarily uncomfortable with being asked to hold this session tonight.

I won't attend, and I think there is special responsibility on the gentleman for providing documentation in the regular channels in the Intelligence Committee and in the other committees that have oversight over intelligence for the information that you claim you are going to be presenting to this Chamber.

I would just urge our leadership to not approve this.

Madam Speaker, I withdraw my reservation for the moment.

The SPEAKER pro tempore. Is there further objection?

Ms. WATSON. Madam Speaker, I reserve the right to object to this process.

I am feeling manipulated. My question is, if there is confidential information, why was it not taken to the Intelligence Committee first before there is a secret session?

The SPEAKER pro tempore. Does the gentlewoman reserve the right to object to the request?

Mr. HOYER. If the gentlewoman will yield, I believe the gentlewoman is reserving her right to object and wanted to speak on the issue.

Ms. WATSON. I reserve my right to object. That is what I said before I came to the mike. I guess I wasn't heard.

Mr. HOYER. The gentlewoman has the floor.

The SPEAKER pro tempore. The gentlewoman from California is recognized.

Ms. WATSON. Madam Speaker, I want to know why the Intelligence Committee did not receive the confidential information that I am hearing is going to be discussed here. If the information discussed here is not confidential, why do we need a secret session and to what end are we having this? We are supposed to vote on FISA tomorrow. I understand there is a compromise that pretty much has been agreed upon. I have been whipping it.

So I want to know to what end we are having this secret session. I would like to yield to you, Mr. BLUNT.

□ 1845

Mr. BLUNT. I thank the gentlelady for yielding.

I would say that every knowledge I have would indicate that our Intelligence Committees have seen the information, and that does not preclude moving to secret session to share information with other Members. I appreciate what some other Members have said about the difficulty of remembering what's secret and what's not, because those of us who have the obligation or the clearance level to look at this information have to do that.

I think the information we will bring to the floor will not be confusing to the Members but enlightening to the Members, and that's why I propose that we will move for a secret session later in the day if this UC is not agreed to.

Ms. WATSON. Reclaiming my time, I would like to know the purpose of the secret session, if you have confidential information, why it was not taken to Intelligence before it was brought here to the Chambers in secret?

I have got to go back to my district and explain to my constituents why we had a secret session before we voted on the FISA bill.

Mr. BLUNT. I actually think it would be harder to explain to our constituents why we didn't have a secret session.

This is a bill that goes well beyond the information that most Members would normally have. I think the secret session will be helpful to the Members, or I wouldn't have said early today that I would ask for it. The information that I have, I believe, will be information that, in my opinion, has been available to the Members with the security clearance that allows them to normally see this information.

The Intelligence Committee would already know the kinds of things that I would intend to discuss this evening.

Ms. WATSON. Reclaiming my time, I asked the Chair, and the Chair is unaware of what this information might be. I am continuing to object until I am satisfied that this meeting is necessary in secrecy and why it didn't go to the Intelligence Committee first.

I don't feel comfortable being manipulated with scare tactics.

Why is it this didn't come forward prior to voting on FISA?

Mr. HOYER. Will my friend yield?

Ms. WATSON. I yield.

Mr. HOYER. I thank my good friend for yielding. What I think the whip is saying, the Whip came to me earlier today, said he wanted to discuss information which the Intelligence Committee has, which the broad reach of the Members do not have, but he did not want to, he did not feel he could discuss that in open session.

The rules provide for the whip to make a motion to do that. That will then be a relatively lengthy process. The whip and I discussed this on his representation that he had information that he felt, in good conscience, he could not divulge, not because it's not in the bosom of the Intelligence Committees or, frankly, maybe the Judiciary Committee, which has been cleared, but because he felt it was information that was not releasable.

What we have done is reached an agreement that makes it very clear that there are very short parameters for this discussion and debate.

I want to say that I, generally, have not been here as long as Mr. OBEY, but my experience on these kinds of sessions, whether they are briefings, has been the same as his. I have rarely learned something that I couldn't read in U.S. News & World Report or Time the day before or the day after.

But having said that, we have tried to reach an agreement with the minority that would facilitate the receiving of information which many Members, not the Intelligence members or the Judiciary members, but many Members have not had available to them and could not be discussed in open session.

I thank the gentlelady for yielding.

Ms. WATSON. I just want to end this with this: I went over to the Chair of Intelligence. I said, Do you know about this? He said, No. He can speak for himself. But why at this time are we given information that is supposed to be so strategic we have to do it before we take the vote on FISA? I smell something, and I do not like to be manipulated.

Madam Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Are there further objections?

Ms. JACKSON-LEE of Texas. Madam Speaker, I reserve the right to object.

Madam Speaker, listening to this discussion and the minority whip, as we have gathered a number of overlays of a discussion, people who are frustrated by the idea of a secret session.

Mr. Majority Leader, I am always interested in Members having the full understanding of the challenges that they face. It is important to know that the chairman of the Judiciary Committee and chairman of the Intelligence Committee made every opportunity for Members to engage in materials or to utilize materials that they might find helpful in this discussion on the FISA bill. Certainly members of the two committees, of which I am a member of the Judiciary Committee, had intense opportunity and, of course, meetings in the appropriate place to be able to garner information.

To the minority whip, I think what I have heard from Members is a degree of confusion and opposition at the same time. We do understand that majority leader has been most gracious in cooperating with Members who are unready, but our difficulty is that it seems as if it is a tool to delay our full discussion on FISA.

I would ask the first question of whether that is the case. Then the other part of it is: There are a number of Members who have already indicated that they will not be present. I am disappointed in that, not in the Members, but in their concern of being held accountable when they debate the question on the floor tomorrow as to why they have said a statement or not said a statement, whether it's relevant or whether it is in this discussion today.

The first question: Is this a tool to delay us from the ultimate business that the people of America want us to engage in is to pass a FISA bill from this floor?

I yield to the gentleman.

Mr. BLUNT. I thank the gentlelady for yielding. I would say it is not intended for that but, in fact, to further amplify our ability to have that discussion tomorrow as we thoughtfully reflect on information. You couldn't talk about the information but you could talk about your reflections on things that you now know other Members are discussing. I think it helps that.

In terms of FISA, the rule allows for 20 minutes to the entire Intelligence Committee to discuss this issue and 40 minutes for Judiciary.

I just think this provides for a fuller moment for the Members to think about, talk about, and discuss some specific information at the secret level that otherwise would not have a chance to be discussed before we move forward with this vote tomorrow.

Ms. JACKSON-LEE of Texas. Reclaiming my time, Mr. Majority Leader, on a very detailed explanation of why we should do this; however, there are gaping holes in the explanation of why we should do this, the timing of it. I think you are being enormously cooperative. I think it's important for the minority that ask for a privilege to be given a privilege.

Mr. Leader, I am concerned, if I might yield to you again, the two-edged sword that Members want to be vigorous in their discussion and want to be open minded, if they participate in this closed session, closed to the American people, the lights out, in essence, questions about the constitutionality, not because it might not have that basis, but others may question it because it is so unique, three times since 1825.

What is the standard, what is the criteria for Members' discussion in a closed session and then the Member going to the floor tomorrow and wanting to be within the realm of the rules of debate tomorrow, want to make the right decision, and now may be caught in a two-edged sword?

It should not be that a Member has to not come tonight to be fully briefed, as Mr. BLUNT seems to think we need to be, and then be in the crosshairs tomorrow when we need to have a full debate in front of the American people.

Madam Speaker, I yield to the gentleman.

Mr. HOYER. I thank the gentlelady for yielding.

For my part, I believe I will be fully engaged on this piece of legislation, on its merits, what it does to facilitate the interception of communications which may prove dangerous to our country and at the same time protect our Constitution.

I don't think I am going to be constrained in any way.

Now, what I will be constrained on saying is that, obviously, I have had the opportunity and taken the opportunity to go to the committee to review information in the bosom of the committee and to make conclusions on that. I will not discuss that specific information, but there is, most of the information that I have, having done that, is from the New York Times, the Washington Post, the Wall Street Journal, other news magazines, from articles that I have read. I frankly think that no Member is going to have to be confused about debating the merits or the demerits of the issue that will be before us tomorrow based upon this secret session.

Now, the gentleman, as I say, has made a request that he has information that he wants to discuss which he believes ought not to be discussed in public. I think everybody, not in public in the sense of depriving the American people from the information, but information that we need to hold close so that it is not used by those who would cause us harm, without speculating as to what that information may be. I frankly think that every Member will be able to make that judgment.

But, more than that, we have discussed this, and we hope to have, and I forget who it was who was mentioned, very appropriately, we hope being prepared now is directive from a non-partisan source of security people. This is, after all, a rule of the House that is being pursued. It could be pursued by motion, but it's being pursued by unanimous consent. Doing so, we believe, sets the parameters more appropriately.

Ms. JACKSON-LEE of Texas. Reclaiming my time, this point was made earlier, but I don't think that it has been clearly enunciated for Members. What you are suggesting is that Members can participate in this discussion. Unfortunately, closed to the American people sounds ominous, and it is unfortunate that we have reached this point, because I do believe that Members have the individual opportunity to visit the Intelligence information, as was made possible by both the Intelligence Committee and the Judiciary Committee.

But I think it's important to note that a Member could be on the floor

this evening and review materials and be in debate, be on the floor tomorrow and say, in my studied opinion on the discussions of last evening, I believe so and so, meaning that I think this FISA bill is solid on its four corners, it is protected, it is constitutional, it protects those individuals covered by it, it gives the American people the sense of national security but also the protection of their civil liberties.

They will at least be able to refer in that general term, is that my understanding? They are not completely silenced from even referring to the fact that they were in a secret session last evening or they were looking at materials in a secret condition.

Mr. HOYER. Would the gentlelady yield?

Ms. JACKSON-LEE of Texas. I am happy to yield.

Mr. HOYER. I don't want to go further than I am absolutely confident on the response to this. However, let me say that I believe that all the information that Members need to debate this bill tomorrow is currently in their possession and will be elicited in public debate.

The minority whip does not believe that. He believes there is additional information.

I think Members, I would not want to leave the impression with any of our Members that somebody had information that they believed was very important to the security of our country that they were precluded from giving to Members. That is why we pursued this objective.

As I say, the rules provide for that. But in terms of the debate, my suggestion is, I think, particularly the gentlewoman who serves so ably on the Judiciary Committee has all the information, and she has some information she knows she can't speak of because she has received briefings as a member of the Judiciary Committee.

□ 1900

But I believe there will be no constraints.

However, the constraint I think is you would not say, out of a secret session, and none of us should say out of a secret session, that X, Y and Z was said in a secret session, or that I got this information from a secret session. And if you did not have that information but for being in that session, my advice would be not to tell that information. But my view has been this has been a very wide, public debate; and I don't have any problems debating this vigorously tomorrow, as I intend to do because I think the bill is a good bill and protects both our intelligence ability and our Constitution. So I will not feel constrained at all. But I will not say I will not tell information that I received in this secret session because I don't think I am going to need to at all.

Ms. JACKSON-LEE of Texas. I yield to the minority whip.

Mr. BLUNT. I would just say obviously some Members were here and

others were not when we had these sessions, five times since 1825, or three times since 1979, depending on how you want to use those numbers. My understanding is that you constantly in your efforts with the information you have as a member of the Judiciary Committee know where that line is. And you can't refer to the secret session, although you can clearly refer to any information that happened to be discussed there that was generally available before that session. You just don't say that it came out of the secret session. And the gentlelady does that with frequency based on her level of current clearance, and you know that line better than most Members of the House do and how to do that.

This would be the same kind of source of information that you would use in your other access, and it is a secret session under the rules on the basis that the rules then provide that what is there is not later to be discussed.

Ms. JACKSON-LEE of Texas. Reclaiming my time, I want it to be clear that a Member can rise on the floor and say, having been in a secret session last evening, not recounting what was in the secret session, but I find that my position remains the same in my support of the bill or my opposition to the bill. One could say that.

Members are going to be coming to the floor and some Member may want to say tomorrow that they were here. They would not be reciting what they heard. They would simply say what they heard did not move them or it moved them. Can someone not say tomorrow they were in the session without recounting what you heard?

Mr. HOYER. I think the fact of attending the session is not secret. The answer is "yes."

Ms. JACKSON-LEE of Texas. Having not been in a session, Members don't know the parameters. Minimally they can say they were here, and what they heard, which they don't recount; they can proceed in their debate on how they review the bill. But they don't recount what was heard.

I yield.

Mr. HOYER. I think every Member will in fact say based upon the information they have, as I will say and as you will say, some of that information is held close. Some is not. And we will make our decisions based upon the information we have. So I think the gentlelady is absolutely correct.

Ms. JACKSON-LEE of Texas. I would be happy to yield to the gentleman from Ohio.

Mr. KUCINICH. This reflects on what our distinguished majority leader said, Congresswoman JACKSON-LEE. In the House under rule XVII, clause 9, it is true that any Member could ask for a secret session, claim they have information. That is a privilege. Furthermore, under rule X, clause 11, and then a subparagraph, the Select Committee

on Intelligence may move to hold a secret session to determine whether classified information held by the committee should be made public.

Now, we haven't seen our distinguished colleague ask for such a secret session, although our other distinguished colleague is requesting it. Now obviously since this has only been done five times in 182 years, five times in 182 years of this institution, it would seem to me that a very high bar has been reached here.

Now my question would be, hypothetically, since any Member has the ability to call for a secret session, if a secret session is requested and the bar that one would assume that we would need to clear to achieve a secret session has in fact not been met, that in fact a secret session was called for reasons for something that was not really all that secret, or not evidence that was probative and weighty, but instead that one person may have felt. And I am not impugning my friend here because he may have some information.

But generally speaking, under the rule, we can all ask for it. But, Mr. HOYER, I think since you are our senior Member here who is our majority leader, or maybe the Parliamentarian knows, if a secret session is called for and the bar isn't reached, what then? What happens then with that secret session?

Ms. JACKSON-LEE of Texas. Reclaiming my time, I would be happy to yield to the majority leader.

Mr. KUCINICH. And what happens to the Member, if I may.

Mr. HOYER. There are a lot of hypotheticals, a, I believe the gentleman is correct, there is a high bar. I will tell you that as everybody in this House knows, Mr. BLUNT and I are friends. I have great respect for Mr. BLUNT. Mr. BLUNT came to me, without denigrating any other Member, he is a leader of his party and I accord him the respect of making the judgment that in fact he is going to meet that high bar.

I have not interrogated him any more than I would want him to interrogate me on that issue. I take him at his word as a Member. Now, the consequence of not meeting that high bar is only that Members will say that a request was made that was not justified. I think that is the consequence. There is certainly no consequence in the rules. And, first of all, we would, I suppose, as a body have to judge, a, what the bar was and whether you met it.

In any event, I think the gentleman understands the answer to my question. I respect him as the leader of his party. He has made this request, and we are trying to honor it, I might say, in a way that most fashions it so that it will be as focused and as helpful as can be.

Mr. KUCINICH. Would the gentlelady yield?

Ms. JACKSON-LEE of Texas. Reclaiming my time, I yield to the gentleman from Ohio.

Mr. KUCINICH. It is my understanding relative to these proceedings in a secret session that the proceedings of a secret session are not published unless the relevant Chamber votes during the meeting or at a later time to release them. Then portions can be released in the CONGRESSIONAL RECORD. Is that right, Congressman JACKSON-LEE and Mr. HOYER?

Ms. JACKSON-LEE of Texas. Reclaiming my time, I yield to Mr. HOYER.

Mr. HOYER. The gentleman is reading from the rule and he is a very bright, good friend; and I am sure he read the rule accurately. So my presumption is that he is accurate.

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Ohio.

Mr. KUCINICH. So that is the remedy, that the House could vote at some point to release.

Mr. HOYER. The gentleman is absolutely correct on that observation.

Ms. JACKSON-LEE of Texas. Reclaiming my time, I indicate to the majority leader and to the minority whip just the discussion here this evening highlights, one, the collegiality of the relationship and the effort, Mr. Leader, you are making, and you are to be commended.

But it also highlights the constitutional weakness, if you will, of the understanding of the Members and the whole question of what we are doing before the American public in a secret session.

I would like to simply say to the American public it is not that we are denying you the opportunity to be fully informed. It is my understanding that Members are asking to debate information that may be classified or secret. Whether this is the right approach, I take great question to this, and would rather it not be.

I think all Members have had access to materials. They can study the FISA bill. The good news is that the American people will have a FISA bill tomorrow passed by this House.

I have a continuing reservation. However, at this time I will withdraw my reservation acknowledging that this is both a unique challenge that we are being offered and that it is possible that there is a better way. But I hope the debate tomorrow, in front of the eyes of the American people, will be vigorous and honest and straightforward and that a bill will be passed.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. SCOTT of Georgia. Reserving the right to object, Madam Speaker, I just wanted to very briefly come down because I think we need to remember, first of all, that we are standing on some very hallowed ground here. We are standing on the grounds of the citadel of this Nation where some heavy prices were paid for the foundation of our government, the hallmark of which

is openness and freedom. So when we take a step to close our proceedings to the American people, we are treading on treacherous ground.

And so I believe, I think that it is very important, Mr. Minority Whip, that I ask you this question because I think you certainly need to answer this for those of us here and the American people, and that question is: Is this a political ploy? In the land of Greek mythology was a land called Troy, and in that land they brought a Trojan horse. And so when you look at the facts that have been exposed in this discourse this evening, you say you have information that is of high intelligence matter, that you are asking us to undermine the very hallmark and foundation of our free, open Republic to present, that has not even been presented to the proper channels of our Intelligence Committee on the eve of a vote that has been moving around these Chambers for well over a month.

Here, just before we are about to go for a 2-week recess, we come with this mysterious information. So the question has to be answered: Is this a Trojan horse? Is this a political ploy? To call a meeting in secret to give secret information, those of us that would come have to abide by the secrecy, then when the vote takes place, if it doesn't go the way that you want it, you can say to the press, well, hey, we called a secret meeting. We gave them valuable information, and see what they did.

It puts this whole situation in a very confounding box, and I ask you to answer that question. Is this not a political ploy? Is this not a Trojan horse? And if so, could it not be a misuse of the sanctity of the House of Representatives?

Mr. BLUNT. I would say to my friend that it is not a political ploy. I would also say that beginning in 1978 when we passed actually the first Foreign Intelligence Surveillance Act, we set a new structure in place where the House of Representatives took more responsibility for intelligence information in the country.

And we can talk about how many times we have done this since 1825 or whatever, but three times, and certainly three times after the House decided in 1978 to take more responsibility for the intelligence issues in the country, we had a discussion that I thought was possible to have here today.

The bar certainly, I understand why my friends would want to raise the bar, but I have information that has been available to the Intelligence Committee that I thought the Members that have not seen that information would benefit from talking about.

I haven't suggested it is at the top secret level. I haven't suggested it is at the program level. I have said it is at the secret level. That kind of information is important to discuss, I think, and should not be discussed in a general session, but also does not rise to

the kinds of things that even in a secret session of the whole House I don't think should be discussed.

You know, the suggestion that somehow here the bar is that if the Member doesn't bring information that the entire country should know, the very future of the country, the essence of the country, rests on, that is not the determination of either a secret level of intelligence or a secret session.

Nor in saying to my good friend, the majority leader, I would be glad to discuss this for an hour, this topic generally, based on information that I think would be important for all of the Members to talk about. Many of the Members have not seen this. It is information I think would be helpful.

□ 1915

I certainly can't control the discussion of the hour, the 30 minutes that I've said I'd be more than happy for the majority to have. I hope we'd both try to be positive here in creating a discussion of items on an issue that, after all, does relate to some of the most sensitive techniques and procedures in our country.

I'm not going to talk about the highly classified parts of the program. I'm not going to talk about the top secret parts of the program that the chairman and the ranking member and others, including the majority leader and I am aware of. But I did have some information that I thought would help the debate that rose to the secret level that all of the Members otherwise would not hear.

Mr. SCOTT of Georgia. But if you were, if that information rose to that level, Mr. Minority Leader, to that level of secrecy, then why would it not certainly have raised to the level that you could have shared it with the chairman of the Intelligence Committee?

Mr. BLUNT. I've said three times now this was information that's been available to the Intelligence Committee.

Mr. SCOTT of Georgia. What I'm saying, but the point is that you, yourself, had the information, but you, yourself, did not share it with the chairman of the committee.

Mr. BLUNT. That is not what I said or what the record would reflect.

Mr. HOYER. Will the gentleman yield?

Mr. SCOTT of Georgia. I will yield to the majority leader.

Mr. HOYER. The reason I stand is because again I want to explain. The information, I don't know the information, but the information that Mr. BLUNT has clearly is within the bosom of the Intelligence Committee, and I don't know, but I presume the Judiciary Committee has had access to it under the President's order. What has not been done is that information has not been shared with the Members. It's not a question of the sharing with the Intelligence Committee. I understand the gentleman's concern. What Mr.

BLUNT is simply saying is he wants to share with the Members. He cannot share it in open session. I don't know what the information is, but, again, as I expressed to my friend, and I would hope that we would understand that at some point in time, we need to accord to one another the credibility. Particularly I would hope that he would accord to me, as the leader, credibility, and as I accord to him credibility on his assertion that this is something he wants to share with the Members, some of whom would not have had access. They may have had access to it, but they haven't heard it. That is all I think he's saying. And in that context, we have come to this agreement which we think, as I say, focuses and serves the concerns that you have legitimately raised and focuses our efforts.

Mr. DANIEL E. LUNGREN of California. Will the gentleman yield?

Mr. SCOTT of Georgia. I will yield to you.

Mr. DANIEL E. LUNGREN of California. As a member of the Judiciary Committee who's read into the program, when Mr. BLUNT talked to me about the possibility of this effort, it was in the context of how do we make that careful distinction, and those of us who've been read into the program, to try and inform the membership without violating the confidentiality under which we work. And the suggestion was that a secret session might allow for a freer discussion, while those of us who've been read into the program still protect the classified nature of the program.

Now, I don't know if it's going to work. All I'm saying is it's no information that's, from my standpoint, that is unknown to other members of the Judiciary or the Intelligence Committee who've been read into the program, but it's our effort to try and find some vehicles by which we can inform the membership while still preserving the confidential status of that information. It's nothing that we have within our bosom that no one else has. It is information that we're trying to find a vehicle to allow the other membership to be informed. And I hope that helps the gentleman.

Mr. SCOTT of Georgia. My final concern is, and I will let this rest, is that after tomorrow when we read the accounts of this, or when we go home and the American people ask us that question, the issue is going to be, Was it worth it? Was it, did it reach that level to really undermine the openness in government?

Our Nation is littered with examples of secrecy when it should have been openness. And as we've seen from those who've been here long before I have, who've gone through these previous times, in the five times and the most recent two or three times that some of those that spoke have been here, it proved to not reach that bar. And I'd just say, these are hallowed grounds. This is a precious country, the centerpiece of which is openness, and if we

keep tipping away at this, we undermine the very fabric of our country. And I just submit to you, Mr. Leader, this is really what's at stake tonight.

Mr. BLUNT. Would the gentleman yield?

Mr. SCOTT of Georgia. Yes.

Mr. BLUNT. I would just say to my friend that the information that I had hoped we would discuss today and still hope we will be able to discuss today is not, is information that most of the Members do not have and have not had access to. And I think our respect for each other as we approach this important decision would indicate that a further discussion, and my view was a discussion that could not be had because of the nature of some of the implications of what we do in an open session, would benefit the debate and the final decision at whatever point that decision will be made.

We do know tomorrow when we leave, the Senate's leaving and there will be no decision made that becomes law this week. But my thought was that all of the Members would benefit from a discussion based on information at a level that could not be disclosed in full debate and a discussion that I hoped would actually see the Members respond with appreciation for each other and our ability to talk about one or two items that were secret and what those items might mean, rather than say, Did that rise to the level of our time?

I don't know what all Members had planned to do tonight, but I suspect that you could argue, if you wanted to, that that discussion will lead, will be well worth the time. I also suspect if you don't want to, you could argue that it doesn't. But my intention was not to create animus among the Members, but to try to create an opportunity where all of our Members, as they have this ongoing discussion about foreign intelligence, have just a little broader window. I think it's important we all understand.

I'm not proposing we open the entire window. I'm not proposing that we go to levels that we probably even among 431 of us who respect each other would want to go to. I thought it would be helpful. We've already debated whether to have this discussion far longer than I had anticipated the discussion taking. But I respect the Member's concern about something that we've only done three times in 30 years, haven't done very many times in the history of the Congress, and we may decide that the expectation of this discussion becomes so high that no Member would ever even consider saying, you know, I saw something here that I think we, it is truly secret so I can't talk about it in the full session. I think we should discuss it in a bigger session.

But if Members begin to think that that has to be that somebody has the plans, and we didn't know it, to nuclear weapons before it's worth having that discussion, we'll never have that discussion. That's not what I'm proposing at all, nor was I anticipating

setting any kind of condition that my friends would have a problem with. I truly believe, after months of looking at this issue, that if the Members understood, even at the entry level, some of the problems it creates not to have a program in place that deals with these problems, the Members would reach a different conclusion. It may turn out that I am wrong on that, and I may take the advice of others who were here 30 years ago when we had three of these and decide this is never worth advancing again to my colleagues; but could we have a discussion in private about things that we can only discuss in private.

The option here is to discuss it in private or not to discuss it at all. And if my friends want to set a level of that discussion so high that if a Member walks out of here and says, well, the world wouldn't have survived without that session, we're never going to have a session where any more of us know the secret level items available to the Congress than know those items right now.

I was trying to be expansive in my sense of this discussion, rather than restrictive. By the end of the day, I'm beginning to think that may have been a mistake, but I'm still optimistic that we can have a discussion that the Members will think, you know, I don't know what I intended to do with the hour tonight, but that was actually as valuable as whatever it was I expected to do. And I would hope that would be the decision the Members would make, was this a more valuable hour for me as I looked to the future of these programs than the hour I might have spent doing whatever you would have been doing if you hadn't been here as Members of Congress talking about things that, if they're going to be talked about, can only be talked about in this way.

Mr. SCOTT of Georgia. Well, just finally, in conclusion, I just want to say that I know that I speak for every single Member of the House of Representatives, both Democrat and Republican, when I say that foremost in all of our minds, foremost is the security of the United States of America, and foremost in our minds is that we do that in the context of the foundations of this country, which are freedom and openness.

We walk a very delicate balance this evening. Let us hope we walk it right.

I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

□ 1930

PERMISSION TO ADJOURN UPON DISSOLUTION OF SECRET SESSION

Mr. REYES. Madam Speaker, I ask unanimous consent that when the secret session of the House is dissolved pursuant to the previous order of the House, the House stand adjourned.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to read to the Members the contents of clause 9 of rule XVII:

SECRET SESSION

Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and the proceedings thereon, unless otherwise ordered by the House.

The galleries of the House Chamber will be cleared of all persons and the House Chamber will be cleared of all persons except Members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the secret session of the House. All proceedings in the House during such consideration shall be kept secret until otherwise ordered by the House.

In addition to the provisions of clause 13 of rule XXIII, which is applicable to all Members, officers and employees, every employee and officer present in the Chamber during the secret session will sign an oath of secrecy, which is in the Speaker's Ceremonial Office, room H-210.

The Chair will declare a recess long enough for this order to be carried out.

The Chair will ask all Members to leave the Chamber temporarily until the security check is completed.

Three bells will be rung approximately 15 minutes before the House reconvenes for the secret session.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 33 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2211

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. TAUSCHER) at 10 o'clock and 11 minutes p.m.

SECRET SESSION

The SPEAKER pro tempore. Pursuant to the previous order of the House,

the Chair declares the House in secret session.

(House proceedings held in secret session.)

The SPEAKER pro tempore. The secret session is dissolved.

SENATE ENROLLED BILLS SIGNED

The Speaker announced her signature to enrolled bills of the Senate of the following titles:

S. 2733. An act to temporarily extend the programs under the Higher Education Act of 1965.

S. 2745. An act to extend agricultural programs beyond March 15, 2008, to suspend permanent price support authorities beyond that date, and for other purposes.

ADJOURNMENT

The SPEAKER pro tempore. Pursuant to the previous order of the House, the House stands adjourned until 10 a.m. tomorrow.

Accordingly (at 11 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Friday, March 14, 2008, at 10 a.m.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

"I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 110th Congress, pursuant to the provisions of 2 U.S.C. 25:

ANDRÉ CARSON, Indiana, Seventh.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5710. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Importation of Fruits and Vegetables [Docket No. APHIS-2007-0116] (RIN: 0579-AC64) received March 6, 2008, pursuant to 5